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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,471	09/18/2001	Marinus Antonius Leonarda Van Heck	U 013648-7	7744

7590                    09/10/2003

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[REDACTED] EXAMINER

KILKENNY, TODD J

ART UNIT	PAPER NUMBER
1733	9

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/955,471	VAN HECK, MARINUS ANTONIU LEONARDA	
<b>Examiner</b>	<b>Art Unit</b>		
Todd J. Kilkenny	1733		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 June 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5-12 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3,4,15,17 and 19 is/are rejected.
- 7) Claim(s) 2,13,14,16,18 and 20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of Group 1 in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. This application contains claims 5 - 12 drawn to an invention nonelected with traverse in Paper No. 6. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 4, 15, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rop et al (US 4,610,742) in view of Borden et al (US 3,635,504).  
  
Rop et al teach methods for splicing tubular food cases, wherein said tubular food casings are in a flattened state during splicing. In one embodiment (Figures 5 and 6), Rop et al suggest telescoping the leading edge of flattened segment (32) inside the trailing edge of flattened segment (30) to form joint (34). Rop et al fail to teach providing the trailing edge of segment (3) with obliquely cut-away corners so that the leading edge

of segment (32) can be slid inside the segment (30) by separating the cut portions (Col. 2, lines 22 – 28; Col. 5, lines 62 – 68).

Borden et al teach a hose splice wherein two hose sections are spliced together by telescoping said hose sections over a fabric-reinforced rubber sleeve. Before telescoping said hose sections over the rubber sleeve, the hose sections are cut to provide obliquely cut-away corners and “tapered fingers” (see Figures 1 and 2, element 12). The hose sections are placed over the sleeve (Figure 8), wherein one of ordinary skill in the art would readily recognize telescoping said hose section over a rubber sleeve would include separating the tapered fingers and sliding said tapered fingers over the sleeve, and wherein one of ordinary skill would readily recognize said tapered fingers would increase the ability to open the hose end and therefore increase the ease of insertion in telescoping said hose over said sleeve (Figures 1 and 8; Col. 2, lines 13 – 42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to form “tapered fingers” from obliquely cut away corners in the trailing edge of the flattened tubular segment (30) of Rop et al as cutting to provide “tapered fingers” is known in telescoping processes as disclosed by Borden et al. One of ordinary skill in the art would have been motivated to form said “tapered fingers” as is suggested by Borden et al as one of ordinary skill would readily appreciate form knowledge generally available that forming said “tapered fingers” would provide increased flexibility in the end of segment (30) and therefore create the ability to achieve a larger opening space

that would enable easier insertion of segment (32) in the disclosed telescoping operation of Rop et al.

As to claim 3, Rop et al further disclose a splicing tape used to fix the ends of the telescoped ends together (Figure 5, element 36; Col 5, lines 65 – 68).

As to claims 4, 15, 17 and 19 in an alternative embodiment, Rop et al suggest that the segments can be coated with a saran polymer and bonded together after telescoping, wherein the saran polymer is activated by heat and pressure (Figures 8 and 9; Col. 6, line 46 – Col. 7, line 8). Said saran polymer being coated on the tube ends is taken to read on a material of the tube end.

#### ***Allowable Subject Matter***

5. Claims 2, 13, 14, 16, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: In the examiner's opinion, it would not have been obvious to a person of ordinary skill in the art to leave a space between the longitudinal edges of the telescoped food casings of Rop et al.

#### ***Response to Arguments***

7. Applicant's arguments filed 6-23-03 have been fully considered but they are not persuasive. As to applicant's argument that when telescoped, the end of one flattened

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tube of Rop et al is not fixed to the end of another flattened tube, the examiner disagrees. One of ordinary skill in the art would readily appreciate the ends of the telescoped tubes are "fixed" to each other, albeit indirectly in the embodiments suggesting a tape wrapped around the telescoped ends or a tape provided within the tubular casings. Furthermore, as suggested in regard to dependent claim 4, Rop et al also disclose melting the tube ends together, wherein the two ends are provided with a polymer coating. As to applicant's argument that the secondary reference to Borden et al does not suggest connecting ends of flattened tubes nor slipping between lips, Borden et al, is directed to a splicing technique, and has been applied to render obvious cutting corners to provide tapered fingers ("lips") when splicing tubular components together. It is the examiner's position that one of ordinary skill in the art, while not positively disclosed by Borden et al, would readily appreciate from knowledge generally available to one of ordinary skill in the art, that cutting the corners to provide lips would create increased flexibility at the tube end which would permit easier placement of one tube end of Rop et al, which is flattened, over the second tube in carrying out the desired telescoping, wherein the tubes of the primary reference to Rop et al are both flattened when telescoped and "fixed" to each other.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Todd J. Kilkenny** whose telephone number is (703) 305-6386. The examiner can normally be reached on Mon - Fri (9 - 5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

TJK

*michael ball*  
Michael W. Ball  
Supervisory Patent Examiner  
Technology Center 1700